

REMARKS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of May 21, 2009.

Reconsideration of the Application is requested.

The Office Action

Claims 1-9 and 33 are pending in this application.

Claims 1-9 and 33 stand rejected (non-final).

Claims 34 and 35 are new.

Claims 1, 2, 4-6, and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent No. 7,043,738 to Mandal et al. (hereinafter "Mandal") in view of U.S. Patent No. 5,384,620 to Ebner et al. (hereinafter "Ebner") and in further view of U.S. Patent No. 6,631,407 to Mukaiyama et al. (hereinafter "Mukaiyama").

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mandal in view of Ebner in further view of Mukaiyama and in further view of U.S. Patent No. 6,463,078 to Engstrom et al. (hereinafter "Engstrom").

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mandal in view of Ebner in further view of Mukaiyama and in further view of U.S. Patent No. 6,496,858 to Frailong et al. (hereinafter "Frailong").

Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mandal in view of Ebner in further view of Mukaiyama and in further view of U.S. Patent Application Publication No. 2003/0177183 to Cabrera et al. (hereinafter "Cabrera").

As per claim 1, the present application claims an embedded system connected to an input-output terminal of an electroreprographic device through at least one existing device interface wherein the embedded system is comprised of a device model agent which acts in a responsive active dynamic monitoring mode. The Examiner cites Mandal as arguably teaching an embedded system comprising a data collection and data display functionality where the embedded system comprises a device modeling agent. However, nowhere in the Mandal reference is an embedded system ever disclosed. Mandal discloses a CIM system which is a system on a host connected to a

server which is connected via internet to a PC and comprising a three tiered system. While this is arguably a computer system and it arguably collects data and displays data, it is not an embedded system. An embedded system is composed of embedded software wherein the principle role is not to serve an information technology function but rather to interact with the physical world of a machine or an appliance. The instructions of an embedded system are written first and foremost for machines and not for computers or people using the computers. Embedded systems are written for a specific purpose; to govern the actions of a hardware device. Embedded systems are designed to perform a specific task and do not perform general purpose computing. Further embedded systems operate in a real-time manner which imposes certain performance restraints with respect to the gathering and presentation of data including a limited, or non-existent, data storage memory capacity. Furthermore, embedded systems, work with program instructions, which are known as firmware and if any instructions are recorded, they are recorded on a read-only memory such as, but not limited to, a flash memory chip. Each and every one of these elements is unique to an embedded system and none of these elements are mentioned in the Mandal reference. Therefore, Mandal cannot be said to teach an embedded system.

The second reference the Examiner uses is Ebner which teaches arguably an electroreprographic device on a central computer system. A central computer system again is not an embedded system, as any one embedded system is specific to a one specific hardware device and is not a general central computer system as cited by Ebner. The Examiner brings in a third reference of Mukaiyama which the Examiner states teaches the component of active dynamic monitoring of device events and statuses. However, nowhere in the reference of Mukaiyama is an active or a dynamic system mentioned. While Mukaiyama arguably teaches presenting a status of a computer system, this is not what is claimed in the present application. Further, Mukaiyama does not teach an embedded system and thus each of these references in combination cannot be said to teach each and every element of the current application because none of these three references combined teaches an embedded system and they do not teach the active dynamic monitoring of device events statuses and supplies consumed.

As per claim 2, the applicant claims the system being comprised of a network, an embedded personal computer in a housing with no direct input or output devices. The Examiner cites Mandal and presents a figure of a PC as element 1100 in Figure 11. This figure presents a PC which arguably teaches a computer but does not teach a specific computer with an embedded system. As per claim 33, the present application claims the system comprising an operating software upgrade device stack supply or maintenance adjustments. The Examiner cites Mandal as teaching software upgrades in that the Examiner recites a (II) set. However, the specific element recited by the Examiner is a data set comprised of data that is arguably updated and copied. The copying of data is not the same thing as updating software or performing a software upgrade. Because software in and of itself is a set of instructions that perform specific programmed tasks whereas sets of data can be a mere recitation of facts.

As per claims 8 and 9, the present application claims a system configured to be connected to an edge server where the edge server manages queues messages and transactions associated with the end-to-end operation of the device. The Examiner recites the Cabrera reference. However, the Cabrera reference is a multicast connector which schedules a specific time at which predefined clients are sent messages, the purpose of which is to reduce bandwidth by staggering the times in which users are sent messages. While Cabrera arguably teaches the specific phrase 'edge server', Cabrera is in a far different technology art than are the other three references cited by the Examiner. The Examiner appears to be engaged in word matching without considering the specific nature of the art in which the words or phrases occur. This is believed to be improper hindsight on the part of the Examiner as the Examiner has merely collected terms that occur in other issued patents or patent applications and placed them without regard for the context in which they occur. Therefore, this combination of four references cannot be said to teach each and every element of the present application.

New Matter

Claims 34 and 35 have been added. Claim 34 is added to further illustrate the use of active dynamic monitoring by listing the types of data used in this type of monitoring. Claim 35 is added in order to further emphasize the embedded system

uses firmware. The remainder of the claims have been amended to emphasize the embedded system and the storage of software within the memory of the physical hardware device element of the present application. Claim 1 has been amended to further emphasize the dynamic provisioning with respect to the downloading of software.

CONCLUSION

For the reasons detailed above, it is submitted all remaining claims (are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

☒ Remaining Claims, as delineated below:

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT LESS HIGHEST NUMBER PREVIOUSLY PAID FOR		(3) NUMBER EXTRA
TOTAL CLAIMS	12	- 20 =	0
INDEPENDENT CLAIMS	2	- 3 =	0

☒ This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

☒ The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account 24-0037.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call the undersigned, at Telephone Number (216) 363-9000.

Respectfully submitted,

FAY SHARPE LLP



Patrick R. Roche, Reg. No. 29,580
The Halle Building – Fifth Floor
1228 Euclid Avenue
Cleveland, OH 44115
216-363-9000

August 7, 2009

Date